Datatreasury Corporation v. Wells Fargo & Company et al Doc. 456

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORPORTION	§	
Plaintiff/Counter-Defendant	§	
	§	
vs.	§	No. 2:06cv72 (DF)
	§	Jury Trial Demanded
WELLS FARGO & COMPANY; et al	§	
	§	
Defendants/Counter-Plaintiff	§	

DATATREASURY'S ANSWER TO THE CLEARING HOUSE PAYMENTS COMPANY, L.L.C. COUNTERCLAIMS

Plaintiff/Counter-Defendant DataTreasury Corporation hereby files its Answer to The Clearing House Payments Company, L.L.C. Counterclaims and in support thereof, states as follows:

FIRST COUNTERCLAIM
(Declaratory Judgment of Non-Infringement)

1. Plaintiff/Counter-Defendant denies that The Clearing House Payments Company. is entitled to a Declaratory Judgment of Non-Infringement, as alleged in paragraphs 106 thru 108 of the first counterclaim of The Clearing House Company's Counterclaim.

2. Plaintiff/Counter-Defendant admits that this Court has original jurisdiction over TCH's counterclaims under 28 U.S.C. §§ 1331, 1338 (a) and (b) and 1367 as alleged in paragraph 106 of the first counterclaim of The Clearing House Company's Counterclaim.

3. Plaintiff/Counter-Defendant admits that venue is proper in this District under 28 U.S.C. § 1391 as alleged in paragraph 107 of the first counterclaim of The Clearing House Company's Counterclaim.

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SECOND COUNTERCLAIM
(Declaratory Judgment of Invalidity)

4. Plaintiff/Counter-Defendant denies that The Clearing House Company is entitled to a Declaratory Judgment of Invalidity, as alleged in paragraphs 109 thru 110 of the second counterclaim of The Clearing House Company's Counterclaim.

THIRD COUNTERCLAIM
(Declaratory Judgment of Unenforceability)

5. Plaintiff/Counter-Defendant denies that The Clearing House Payments Company is entitled to Declaratory Judgment of Unenforceability as alleged in paragraphs 111 thru 113 of the third counterclaim of The Clearing House Payment Company's Counterclaim.

6. Plaintiff/Counter-Defendant denies that this is an exceptional case within the meaning of 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff/Counter-Defendant prays for judgment against Defendants/Counter-Plaintiffs as follows:

A. For judgment dismissing the counterclaims with prejudice;

B. For a declaration that this is an exceptional case, and an award to Plaintiff/Counter-Defendant of its costs and attorneys' fees incurred herein;

C. An award of the costs of this action; and

D. That Plaintiff/Counter-Defendant be awarded such other and further relief as the Court may deem just and proper, including all relief requested in Plaintiff's Complaint.

Respectfully submitted,

_____________/S/______________________

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ATTORNEYS FOR PLAINTIFF/COUNTER-DEFENDANT,DATATREASURY CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record, via CM/ECF, on the 31st day of January, 2007.

___________/S/______________________
Edward Lewis von Hohn